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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/037,020

12/21/2001

Karen Heneghan

KH-1

5345

7590

12/08/2003

Nicholas A. Camasto Ltd.
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EXAMINER

COLE, LAURA C

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/037,020

Applicant(s)

HENEGHAN, KAREN

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

1. Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "28" and "38". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:

Page 3 Lines 19-20 the disclosure states that "Further reference to Figures 3-9 may be made for the flowing description of supports 20, 30, and 40." There is no reference in Figures 3-9 of a support "30". However it appears that "30" would apply to Figures 5-7.

Page 4 Line 2 refers to a bottom portion as "24, 34, and 44" and on Page 4 Line 6 states that "24 and 34" are side portions. It appears that in Line 6 the side portions

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are actually "28 and 38" which are not mentioned in the specification. (See objection made to the drawings.)

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Belokin, Jr. et al., USPN 5,096,272.

Belokin, Jr. discloses the claimed invention including a first and second end support (Figure 10 (10 and 10A)), the first and second end supports each including a back portion (42 and 42A) and a lower portion (12 and 12A), and suction cup means affixed to the back portions (50 and 50A). The end supports include side portions restricting longitudinal horizontal movement (20 and 20A) and the end supports further include front portions (31 and 31A) for restricting transverse horizontal movement. The suction cup means comprises a pair of suction cups (one pair being 50 and 50, the other being 50A and 50A).

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5. Claims 1 and 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Walters, USPN 4,376,521.

Walters discloses the claimed invention including a first and second end support (Figure 1 (10 and 10)), each support including a back portion (30) and a "lower" portion (20), and suction cup means (14) affixed to the back portions. Each of the end supports comprise front portions (hollowed portion (60)) for restriction transverse horizontal movement of the spine (see Figure 1). The suction cup means comprise a pair of suction cups (Figure 1).

6. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Russo et al., USPN 4,951,909.

Russo et al. disclose the claimed invention including a first and second end support (18 and 19), each support including a back portion (32 and 34) and a lower portion (22 and 23, wherein the attachment to the portions 32 and 34 are transverse), and suction cup means (20, 21) affixed to the back portions. Each of the end supports comprises front portions (the loop or hook formed by 22 and 23 provide a front portion) for restriction transverse horizontal movement of the spine (see Figure 1).

7. Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, II et al., USPN 6,016,926.

Smith, II et al. disclose the claimed invention including a first and second end support (see Figures 1 and 2 at (14 and 16)), each support including a back portion and a lower portion (see particularly Figures 4 and 5), and suction cup means (24) affixed to the back portions. Each of the end supports comprises front portions and side portions

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(20) for restriction transverse horizontal movement of the spine (see Figure 4). The suction cup means comprise a pair of suction cups (Figure 2).

8. Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Howard, USPN 6,308,923.

Howard discloses the claimed invention including a first and second end support (Figures 5, 6 and 8, individually depicted in Figure 2), each support having a back portion (24) and a lower portion extending perpendicular thereto (see Figure 2 hatched lines displaying an unlabeled portion appearing to be perpendicular to (24)), and suction cup means (12). The end supports each include a front portion for restricting transverse horizontal movement (see especially Figure 2, portion with "ball" or "bulb" at the end). The system further includes an intermediate support (Figure 6 includes a third support) having the same structure of the first and second support end and suction cup means affixed to the back portion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belokin, Jr. et al., USPN 5,096,272 in view of Howard, USPN 6,308,923.

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Belokin Jr. et al. and Howard disclose all elements above. Further Howard discloses that one or more intermediate supports may be used to diversify the support's application (Column 5 Line 58 to Column 6 Line 4).

It would have been obvious for one of ordinary skill in the art to implement an intermediate support such as Howard teaches between the first and second end supports of Belokin, Jr. et al. to add in further extension support of a diverse device.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belokin, Jr. et al., USPN 5,096,272 in view of Howard, USPN 6,308,923 and in further view of Anderle, USPN 2,890,851.

Belokin, Jr. et al. and Howard disclose all elements above, however neither provide alignment indicia.

Anderle discloses an installation and mounting bracket that uses indicia (29) to adjust the mounting locations of the screws in mounting to maintain the correct vertical alignment, as the Applicant's invention also attempts.

It would have been obvious for one of ordinary skill in the art to provide alignment indicia to the device of Belokin, Jr. et al. and Howard, such as Anderle discloses so that the mounted device is aligned levelly. Further, it would have been obvious for one of ordinary skill in the art to provide such indicia by a horizontal line as an alternate way of presenting the indicia.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belokin, Jr. et al., USPN 5,096,272 in view of Howard, USPN 6,308,923 and in further view of Smith, II et al., USPN 6,016,926.

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Belokin, Jr. et al. and Howard disclose all elements above, however do not provide an intermediate support has a pair of suction cups. The intermediate portion, taught by Howard above, has a singular suction cup. Smith, II et al. also discloses all elements above including using a pair of suction cups for its support ends for strength (Column 2 Lines 50-56).

It would have been obvious for one of ordinary skill in the art to implement an intermediate support such as Howard teaches between the first and second end supports of Belokin, Jr. et al. to add in a further extension support of a diverse device. Further, it would have been obvious for one of ordinary skill in the art to modify the intermediate support of Howard and have a pair of section cups such as Smith, II et al. teach instead of just one for added strength.

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belokin, Jr. et al., USPN 5,096,272 in view of Howard, USPN 6,308,923, in further view of Smith, II et al., USPN 6,016,926, and in even further view of Anderle, USPN 2,890,851.

Belokin, Jr. et al., Howard, and Smith, II et al. disclose all elements above, however neither provide alignment indicia.

Anderle discloses an installation and mounting bracket that uses indicia (29) to adjust the mounting locations of the screws in mounting to maintain the correct vertical alignment, as the Applicant's invention also attempts.

It would have been obvious for one of ordinary skill in the art to provide alignment indicia to the device of Belokin, Jr. et al., Howard, and Smith II, et al., such as Anderle discloses so that the mounted device is aligned levelly. Further, it would have been

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obvious for one of ordinary skill in the art to provide such indicia by a horizontal line as an alternate way of presenting the indicia.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 2,849,745 to Madsen discloses a venetian blind cleaning rack that employs suction cups for support to a tub, however does not disclose end supports that have a back portion and a lower portion.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (703) 305-7279. The examiner can normally be reached on Monday-Thursday, 7am - 4:30pm, alternating Fridays. After December 16th, the Examiner's office will be located at the new USPTO site in Alexandria, Virginia. After this date, you may reach Examiner Laura Cole by phone at (571) 272-1272 or by fax at (571) 273-1272.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (703) 308-2920 (or after December 16th may be reached at (571) 272-1281). The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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